GAHC010164592020

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5090/2020

DR. HEMANTA KR CHALIHA
S/O LATE NABA KUMAR CHALIHA
RESIDENT OF RAILWAY STATION ROAD, WARD NO. 2, NORTH
LAKHIMPUR, DIST LAKHIMPUR 787001

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM,
EDUCATION (HIGHER) DEPARTMENT, DISPUR GUWAHATI 6

2:DIRECTOR OF HIGHER EDUCATION ASSAM
KAHILIPARA
GUWAHATI 19

3:THE GOVERNING BODY OF LAKHIMPUR KENDRIYA MAHAVIDYALAYA
REPRESENTED BY ITS SECRETARY PO CHARIMORIA
787032
DIST LAKHIMPUR
ASSAM

4:THE PRINCIPAL
LAKHIMPUR KENDRIYA MAHAVIDYALAYA
PO CHARAIMOLIA
787032
DIST LAKHIMPUR
ASSA

Advocate for the Petitioner : MR. U J SAIKIA

Advocate for the Respondent : SC, HIGHER EDU

BEFORE
HONOURABLE MR. JUSTICE ACHINTYA MALLA BUJOR BARUA

O R D E R

04.12.2020

Heard Mr.UJ Saikia, learned counsel for the petitioner and Mr. AR Tahbildar, learned standing Counsel for Higher Education Department of the Government of Assam.

2. The petitioner, who is serving as an Associate Professor in the Department of Assamese in the Lakhimpur Kendriya Mahavidyalaya, was imposed a penalty of stoppage of two increments pursuant to a disciplinary proceeding that was initiated against him as per the order dated 09.12.2016. Being aggrieved, the petitioner instituted WP(C) No.2053/2017, which was given a final consideration by the order dated 27.03.2019, wherein it was taken note of that an appeal dated 05.02.2017 preferred by the petitioner was yet to be disposed of. Accordingly, a direction was issued to dispose of the appeal. Pursuant thereto, the order dated 06.01.2020 has been passed by the Joint Secretary to the Government of Assam in the Higher Education Department, by which it was provided as follows:-

> "*In view of the above, Govt. has allowed to modify the DHE's order vide No.G(B) Misc.315/2015/318 dated 09-12-2016 without the penalty of stoppage of two increments.*"

3. Apparently, a reading of the order dated 06.01.2020 which was passed pursuant to the appeal of the petitioner modifies the order of penalty to the extent that the penalty of stoppage of two increments had been withdrawn. In other words, after the appellate order, no order remains in force, which requires the stoppage of two increments in respect of the petitioner. Petitioner institutes this writ petition with the prayer that the respondents be directed to include the two increments to the salary of the petitioner, which were stopped as per the order of the disciplinary authority dated 09.12.2016.

4. As the appellate authority had already decided the issue and the order of stoppage of increment has been interfered, meaning thereby that there is no such order presently in force for any stoppage of any increments, the respondents are now required to comply with their

own order in appeal dated 06.01.2020 and pay the salary and allowances to the petitioner by accepting the situation that there is no order for stoppage of any increment meaning thereby the salary and allowance be paid to the petitioner by including the increments as may be admissible.

5. The requirement be done within a period of two months from the date of receipt of a certified copy of this order.

In terms of the above, the writ petition stands disposed of.

JUDGE

Comparing Assistant